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Letter dated 10 August 2005 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to the Chairman's letter of 3 May 2005 (S/2005/290). The Counter-Terrorism Committee has received the attached fifth report from Pakistan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ronaldo Mota **Sardenberg**
Acting Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 25 July 2005 from the Permanent Representative of Pakistan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Kindly refer to your letter dated 6 April 2005 and this Mission's note verbale dated 13 July 2005.

I am enclosing Pakistan's fifth report on counter-terrorism pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure).

(*Signed*) Munir **Akram**
Permanent Representative

Enclosure

Fifth Report by Pakistan to the Counter-Terrorism Committee

Following are replies to the questions raised by the CTC on the Fourth Report provided by Pakistan.

1. Implementation Measures

Q.1.1 In Pakistan's Reports, references are made to drafts of legislation under consideration that would amend the Anti-Terrorism Act 1972 and would provide for an Anti-Money Laundering law and a Proceeds of Crime Bill with a view to bringing Pakistan fully into compliance with the legislative requirements to implement Resolution 1373 and the 12 international conventions and protocols, including to specifically make the financing of terrorism and other forms of support to terrorism prohibited offences. It is also indicated that such legislation would allow Pakistan to become a party to the International Convention for the Suppression of the Financing of Terrorism. The CTC should appreciate it if Pakistan would provide it with an update on the status of the proposed legislation. Also, if already enacted, the CTC should appreciate it if Pakistan would provide it with an outline of the relevant provisions.

Answer:

Anti-Terrorism Act, 1997

The Anti-Terrorism Act, 1997 (erroneously referred as Anti Terrorism Act 1972 in the question) and its subsequent amendments mainly deal with prevention of terrorism, sectarian violence, terrorist financing, and speedy trial of such crimes. Pakistan has criminalized the financing of terrorism, terrorist acts and terrorist organizations; and designated such offences as predicate offence for money laundering.

In Anti-Terrorism Act, following sections specifically deal with the terrorist financing and money laundering.

Section 2(z)(aa) – Terrorist Property
Section 11F-(5) & 11H – Fund Raising
Section III – Use and Possession
Section 11J – Funding Arrangements
Section 11K – Money laundering.
Section 11N – Punishment under Sections 11H to 11K.
Section 11O – Seizure and Detention
Section 11Q – Forfeiture

Draft Anti-Money Laundering Bill, 2005

The draft Anti-Money Laundering Bill, 2005 has been approved by the Cabinet. Now as a next step, the Bill shall be submitted to the Parliament through Ministry of Parliamentary Affairs.

Q.1.2 Pakistan further indicated that relevant provisions of the 10 international anti-terrorism instruments of which it is a party are covered in its current laws. The CTC should appreciate it if Pakistan would provide it with an outline of the relevant laws specifically as they apply to each of the referenced activities.

Answer:

A) Pakistan is a common law jurisdiction. The main statute that creates the penal liability is the Pakistan Penal Code of 1860. It has 511 provisions criminalizing conduct under numerous heads. The statutory language used for formulation of offences is general. It thus allows coverage of wide range of crimes. There have been changes in the Code but the essential character and structure has remained the same. The main statute that controls and regulates the procedure of the criminal trial is the Pakistan Criminal Procedure Code (Cr.P.C). This spells out provisions for the manner of investigation, search, seizure, conduct of trial, evidence, procedural rights of the accused, nature and manner of convictions etc. Apart from PPC, there has been a history of special statutes enacted to reinforce the then existing regimes and to make the criminal justice system in Pakistan more efficient and effective. Cr.P.C is invariably applicable to the investigative and trial proceedings under these special laws unless there are specific provisions that overrule its application. The "Qanun-e-Shahadat Order, 1984 (Evidence Act) entails the procedures involved in procurement, admissibility, and recording of evidence.

B) Accordingly, there exist provisions in general law as well as special laws, which provides for the legal framework for catering to the requirements of various terrorism related conventions. For example, in relation to **'International Convention against the Taking of the Hostages'**, some of the relevant provisions are under:

Anti-Terrorism Act, 1997
Section 2(m) – Hostage Taking
Section 2(n)- "Kidnapping for Ransom"
Section 6(2)(e) – Kidnapping for ransom, hostage-taking or hijacking as act of terrorism

Pakistan Penal Code, 1860
Section 365-A - Kidnapping or abduction for extorting property, valuable security, etc

Moreover, for **'Tokyo Convention on Offences and Certain other Acts Committed on Board Aircraft'**; and **'Convention for the Suppression of Unlawful Seizure of Aircraft'**, some of the relevant provisions are under:

Pakistan Penal Code, 1860
Section 402-A – Hijacking
Section 402-B – Punishment for Hijacking
Section 402-C – Harbouring Hijacker, etc

Explosive Substance Act, 1884
Section 8, 9

Anti-Terrorism Act, 1997
Section 2(l) – Hijacking
Section 6(2)(e) – Kidnapping for ransom, hostage-taking or hijacking as act of terrorism

C) Similarly, provisions exists both in general as well as in special laws providing the implementation mechanism in connection with various terrorism related Conventions.

Q.1.3 Pakistan has indicated that the draft Anti-Money Laundering law, when enacted, will bring Pakistan's money laundering law into conformity with international standards, including the establishment of the National Financial Intelligence Centre, Pakistan's financial intelligence unit. In addition, the law will: make the financing of terrorism a predicate offence for money laundering; extend the banking and financial laws to alternative money transfer systems; and, regulate charitable, religious, and other non-governmental organizations. In that regard, the CTC should appreciate it if Pakistan would provide it with an outline of the relevant provisions of the law as enacted.

Answer:

A. A) Money Laundering is an offence vis-à-vis three predicate offences i.e., Drug-trafficking, Corruption & Corrupt Practices and Financing of Terrorism in respective statutes. i.e., Control of Narcotics Substances Act, 1997; National Accountability Ordinance, 1999; and Anti-Terrorism Act, 1997. While National Accountability Bureau is presently functioning as a Financial Intelligence Unit based upon its legal and operational framework.

In order to strengthen the existing legal framework and especially to include the other serious offences as predicate for the offence of money laundering, the draft Anti-Money Laundering Bill 2005 is presently in the process of enactment. Consequent upon the enactment, a Financial Monitoring Unit (FMU) will be established so as to consolidate the existing suspicious transactions reporting regime.

B) As far as financing of terrorism is concerned, it is a predicate offence for Money Laundering in terms of Anti-Terrorism Act, 1997 (Section 11K read with Section 2z(aa)).

C) Through an amendment in Foreign Exchange Act 1947, State Bank of Pakistan (SBP) has issued directives whereby the money changers have been transformed into the Exchange Companies duly regulated by SBP having a minimum capital of Rupees 100 million. The companies are required to maintain proper record of transactions and also submit periodic returns to SBP. The activities of these companies are subject to SBP onsite inspection.

D) Charitable organizations are administered separately. There are a number of statutes that administer these organizations which include:-

1. Societies Registration Act 1860.
2. Religious Endowment Act 1863
3. Trusts Act 1882
4. The Charitable Endowment Act 1890.
5. Musalman Waqaf Validation Act 1890

6. Charitable and Religious Trusts Act 1920
7. The Musalman Waqf Act 1923
8. The Cooperative Societies Act 1925.
9. The Musalman Waqf Validating Act 1930.
10. The Voluntary Social welfare agencies (registration and control) Ordinance 1961
11. Companies Ordinance 1984.

Q.1.4 Pakistan has indicated that there is no specific legal requirement for lawyers to report suspicious financial transactions. Also, it appears from the information provided so far that there may be certain circumstances under which lawyers might be obligated to do so. Could Pakistan please outline under what circumstances lawyers would be required to report suspicious financial transactions, and what effect, if any, the proposed Anti-Money Laundering law would have on the obligation of legal advisors to report suspicious financial transactions.

Answer:

A) Communications between a lawyer and his client has the status of 'Professional Communications' under article 9 of Qanun-e Shahadat Order 1984 (Evidence Act). However, there is a very significant proviso in the article :

Quote "Professional Communications

No advocate shall at any time be permitted, unless with his clients' express consent, to disclose any communication made to him in the course and for the purpose of his employment as such ..... **provided that** nothing in this article shall protect from disclosure;

(1) any such communication made in furtherance of any illegal purpose; or

(2) any fact observed by any advocate, in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment, whether the attention of such advocate was or was not directed to such fact by or on behalf of his client".

Unquote

B) Moreover, in terms of draft AML Bill 2005, Non-Financial Businesses & Professions, which include lawyers as well, may be required to report suspicious transactions to FMU

Q.1.5 Pakistan indicated in its reports that it has the legal and administrative capacity to freeze cash held in banks belonging to groups that are on a UN designated list pursuant to Security Council resolutions or of a proscribed organization. Does Pakistan have the legal capacity to "freeze without delay" suspected terrorist-related funds upon request from another State? Please explain the circumstances under which such action would be carried out, the procedures for doing so, and the legal basis, if any, for taking such action.

Answer.

The Government of Pakistan is empowered under the Anti-Terrorism Act, 1997 to take action against any terrorist related funds under its jurisdiction. Under section 11-B of the Anti-Terrorism Act, 1997, the Government could proscribe any organization on the ground that it is involved in promotion of terrorism. After proscribing the said fund/entity/ individual, the Government of Pakistan under section 11-E of the said Act amongst other measures issue Gazette Notification for freezing the funds/accounts of the said outfit. Accordingly State Bank of Pakistan directs all banks/development financial institutions for freezing of those funds/accounts and reporting to SBP of funds/accounts so frozen.

Q.1.6 Pakistan indicated that it was in the process of implementing a Personal Identification Secure Comparison Evaluation System (PISCES) at all international air – and sea-ports under a phased programme. The CTC should appreciate it if Pakistan would provide it with an update of the progress of implementation of the PISCES and its effectiveness to date in preventing the entry and exist from Pakistan of persons suspected of acts of terrorism or providing support to terrorism and related criminal activities.

PISCES was initially deployed at Karachi and Islamabad Airports in 1997. After 11 September 2001, the scope of the project was extended to all ports of embarkation and disembarkation including Seaports, Land ports and Airport.

Countrywide Status of PISCES Sites

No.	Operational	Under Process	Pending
1.	Islamabad Airport	Taftan land route	Sust land route
2.	Karachi Airport	Port Bin Qasim	Pasni airport
3.	Lahore Airport		Gawader airport
4.	Peshawar Airport		Gawader airport
5.	Quetta Airport.		
6.	Multan Airport		
7.	Faisalabad airport		
8.	Wahga land route		
9.	Wahga railway station		
10.	Karachi seaport (KPT)		
11.	Ghaas Bander seaport		
12.	Chyamman land route		
13.	Torkham land route		
Total	13	2	4

Target for 2005

May – June 2005:

- Site survey of Turbat and Pasni.
- Deployment of PISCES Project at Torkham.
- Establishment of WAN connectivity between FIA (HQ) and Gawdar airport/seaport

3rd Quarter (July – September)

- Site Survey of Sust border.
- Deployment of PISCES Project at Turbat and Pasni.

September 2005:

- Establishment of WAN connectivity between FIA (HQ) and Turbat/Pasni.
- Deployment of PISCES Project and Sust.

4th Quarter (October – December)

October – November 2005:

- Beef up the Immigration Staff by posting sixty newly recruited lady ASI's
- Establishment of WAN connectivity between FIA (HQ) and three seaports of Karachi.

December 2005:

- Enhancement of bandwidth between major cities of Pakistan

Q.1.7 The CTC should appreciate it if Pakistan would provide it with information concerning any further action taken by Pakistan, since its last report to the CTC, to strengthen its counter-terrorism capacity and modalities for cooperation with other States to combat terrorism.

Answer:

Pakistan is an active partner in the war against terrorism. Pakistan Government and its security agencies are vigorously pursuing objectives of relevant UNSC resolutions on counter terrorism. In this connection, the banned organizations and their activities in Pakistan are under strict watch. Meanwhile, efforts to arrest Al-Qaeda / Taliban operatives in Pakistan have been redoubled. A number of Al-Qaeda operatives have been arrested and their cases are being processed under relevant laws. Important Al-Qaeda operatives, like Ahmed Khalfan and Abu Farraj Al Libbi have been arrested in the recent past. Besides, Pakistan also launched a military operation in Tribal Areas of Pakistan to flush-out Al Qaeda / Taliban miscreants. Their hide-outs were destroyed and a number of foreign Al-Qaeda elements and their local collaborators were killed during the military operation. Over 700

casualties of security officials highlight Pakistan's resolve to eliminate terrorism from the world root and branch.

Pakistan is closely cooperating with International community to eradicate the menace of terrorism. The areas of cooperation include sharing and exchange of information, sharing of interrogation reports of various apprehended terrorists and repatriation/rendition of foreign miscreants to their respective countries. This pro-active cooperation has enabled us to bust certain important networks and apprehend certain important terrorists.

Q.1.8 The CTC should further appreciate it if Pakistan would share with it any assessments or evaluations, especially those related to operational measures, in connection with the implementation of the Resolution, that are carried out by any international or regional institution or organization.

Answer:

Pakistan is closely cooperating with the international community to eradicate the menace of terrorism. In the same spirit, Pakistan actively participates in various regional/ international forums on global fight against money laundering and terrorist financing in accordance with the requirements of these forums.

Q.2.1 The CTC wishes to emphasize once more the importance that it attaches to the provision of assistance and advice in connection with the implementation of the Resolution. In that regard, the CTC wishes to remind Pakistan of the CTC's Directory of Assistance (www.un.org/sc/etc), which is frequently updated to include new, relevant information on available assistance. The CTC should appreciate receiving information from Pakistan concerning areas where it believes it can benefit further from assistance, and an update on the effectiveness of resolution 1373-related anti-terrorism technical assistance it has received so far in fulfilling those needs already identified by Pakistan.

Answer:

Effectiveness of UNSC Resolution 1373 can be increased through increased cooperation between Pakistan and the developed partners in capacity building projects for security agencies as well as civil institutions. Education in Maddrassahs could be modernized through innovative programmes.

Government's resolve notwithstanding, the technical capability of the security agencies and their inaccessibility to requisite technologies continues to impede security operations in troubled areas. The international community should consider providing the following:

a. Unarmed aerial vehicles for border surveillance.
b. GSM mobile and satellite band monitoring and jamming systems.
c. Internet protocol (IP) monitoring systems.
d. Scanning equipment for detection of weapons, explosives and narcotics fitted on mobile platform.
e. Forensic Laboratories.